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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 PAUL YAHNE,

7 Plaintiff,

8 v.

9 WASHINGTON STATE PATROL, et al.,

10 Defendants.

CASE NO. C13-5923 BHS

ORDER DENYING PLAINTIFF'S
MOTIONS

11
12 This matter comes before the Court on Plaintiff Paul Yahne's ("Yahne") motion to
13 appoint counsel (Dkt. 8) and motion to order service (Dkt. 9). The Court has considered
14 the pleadings filed in support of and in opposition to the motions and the remainder of the
15 file and hereby denies the motions for the reasons stated herein.

16 On October 21, 2013, the Court granted Yahne's motion to proceed *in forma*
17 *pauperis* and accepted his civil rights complaint. Dkts. 2 & 3. On November 18, 2013,
18 the Court issued a minute order setting certain initial deadlines. Dkt. 7. On December 5,
19 2013, Yahne filed a motion to appoint counsel and motion requesting the Court to order
20 service of the Defendants by the U.S. Marshalls. Dkts. 8 & 9. On December 16, 2013,
21 Defendants responded to the motion to appoint. Dkt. 10.

1 With regard to Yahne's request for counsel, there is no right to have counsel
2 appointed in cases brought under 42 U.S.C. § 1983. Although the Court, under 28 U.S.C.
3 § 1915(e), can request counsel to represent a party proceeding *in forma pauperis*, the
4 Court may do so only in exceptional circumstances. *Rand v. Rowland*, 113 F.3d 1520,
5 1525 (9th Cir. 1997). A finding of exceptional circumstances requires an evaluation of
6 both the likelihood of success on the merits and the ability of the plaintiff to articulate his
7 claims pro se in light of the complexity of the legal issues involved. *Wilborn v.*
8 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

9 In this case, Yahne has failed to show that exceptional circumstances exist. Yahne
10 appears to be able to articulate his claims and the issues are not complex. Therefore, the
11 Court denies Yahne's motion to appoint counsel.

12 With regard to his motion to order service, the Court finds that, at this time,
13 service by the U.S. Marshalls is not necessary. Defendants have waived the defense of
14 insufficient service by filing a Rule 12 motion without raising the defense. Therefore,
15 there is no need for service by the marshalls.

16 Therefore, it is hereby **ORDERED** that Yahne's motion to appoint (Dkt. 8) and
17 motion to order service (Dkt. 9) are **DENIED**.

18 Dated this 17th day of January, 2014.

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BENJAMIN H. SETTLE
United States District Judge